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EXAMINER	
SENSENIG, SHAUN D	
ART UNIT	**PAPER NUMBER**
3629	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/533,242	BAILEY ET AL.	
	Examiner	Art Unit	
	Shaun Sensenig	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *68,69,71,72,74-78,80,81 and 83-97* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *68,69,71,72,74-78,80,81 and 83-97* is/are rejected.

7)☒ Claim(s) *87* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to papers filed on October 13, 2009.

Claims 68, 69, 71, 72, 74-77, 80, 81, and 83-87 have been amended.

Claims 1-67, 70, 73, 79, and 82 have been cancelled.

Claims 88-97 have been added.

Claims 68, 69, 71, 72, 74-78, 80, 81, and 83-97 are pending.

Claim Objections

1. **Claim 87** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Mere possession of a system capable of performing the method of parent Claim 77 would infringe Claim 87, but not Claim 77. See MPEP § 608.01(n).II and III. Applicant is required to cancel the claim(s) or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 77, 78, 80, 81, 83-85, and 93-97 are rejected under 35 U.S.C. 101 as being nonstatutory.**

3. In regards to **Claims 77, 78, 80, 81, 83-85, and 93-97**, based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must entail the use of a specific machine or transformation of an

article which must impose meaningful limits on the claim's scope to impart patent-eligibility. *See* Gottschalk v. Benson, 409 U.S. 63, 71-72 (1972). Second, the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity. *See* Parker v. Flook, 437 U.S. 584, 590 (1978). The "database", as presented in claim 1, performs the insignificant extra-solution activity of storing without performing any processing activities. Moreover, while the claimed process contains physical steps (storing, associating, displaying), it does not involve transforming an article into a different state or thing. Therefore, Applicants' claim is not drawn to patent-eligible subject matter under § 101.

4. In regards to **Claims 91 and 96**, if the broadest reasonable interpretation of the claimed invention as a whole encompasses a human being, then a rejection under 35 U.S.C. 101 must be made indicating that the claimed invention is directed to nonstatutory subject matter.

Claim Rejections - 35 USC § 112, First Paragraph

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. **Claims 77, 78, 80, 81, 83-85, and 93-97 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the**

inventor(s), at the time the application was filed, had possession of the claimed invention.

7. In regards to **Claims 77, 78, 80, 81, 83-85, and 93-97**, material describing a data store containing the specified information (object data, vehicle data, event data, etc.) could not be found in the specification as originally filed. Although this data is present in the specification, it is not shown to be contained in the data store. Additionally, material describing a manager configure to collect the specified information (object data, event data, etc.) from a data store could not be found in the specification as originally filed.

8. In regards to **Claims 88 and 93**, material describing a data store containing the *specified* information (flight schedules) could not be found in the specification as originally filed. Although this data is present in the specification, it is not shown to be contained in the data store.

9. In regards to **Claims 89 and 94**, material describing a data store containing the *specified* information (flight status, location) could not be found in the specification as originally filed. Although this data is present in the specification, it is not shown to be contained in the data store.

10. In regards to **Claims 90 and 95**, material describing names of persons being included in data could not be found in the specification as originally filed.

11. In regards to **Claims 92 and 97**, material describing a data store containing the *specified* information (itinerary, destination) could not be found in the specification as originally filed. Although this data is present in the specification, it is not shown to be contained in the data store.

12.

Claim Rejections - 35 USC § 112, Second Paragraph

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. **Claims 77, 78, 80, 81, 83-85, and 93-97 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

15. In regards to **Claims 77, 78, 80, 81, 83-85, and 93-97**, it is unclear as to how event data is used to associate object data and vehicle data. Additionally, the manager retrieves object data and event data from the data store, then associates them with vehicle data, however the vehicle data is not retrieved by the manager. It is unclear as to whether vehicle data is retrieved or saved somewhere other than the data store as claimed previously in the claim language.

16. In regards to **Claims 89 and 94**, it is unclear as to how the information includes a location of the moving vehicle or a flight status of the moving vehicle. For example, if the vehicle is *moving*, then the data saved to and retrieved from the data store would be consistently outdated. It is unclear as to whether the location information is intended to be a current location or a previous location, which in turn renders it unclear as to why/how this location information can be used.

Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

18. **Claims 68, 69, 72, 75, 76-78, 81, 84-88, 91-93, 96, and 97 are rejected under 35 U.S.C. 102(b) as being anticipated by DeLorme et al. (Patent Number 5,948,040) (hereafter referred to as DeLorme).**

19. In regards to **Claims 68, 77, 86, and 87**, DeLorme discloses:

A method and system, comprising:

a data store containing vehicle data, object data, and event data, the vehicle data including information about a plurality of moving vehicles, the object data including information about a traveling object, the event data including information about a travel requirement of the traveling object; (**Abstract, lines 16-24; Column 8, lines 23-28; Column 33, lines 23-40; and Column35, lines 50-52, *shows database containing data on events (points of interest), vehicles (accommodations/travel options)an and object database (travel data such as itinerary)***)

a manager configured to obtain the object data and the event data from the data store and capable of associating in accordance with the event data, the information about the traveling object with information about a particular moving vehicle from among the plurality of moving vehicles; (Column 8, lines 23-30, *shows a manager that is* ***capable*** *of associating data*) and

a map generator capable of displaying a map with at least a subset of the vehicle data and information about the particular moving vehicle and information about the traveling object superimposed onto the map. (**Abstract, lines 16-24** and Fig. 5D, ***shows the capability of generating/collecting object data and vehicle data*** *and the* ***capability*** *to display a map with the data*)

Material following the phrase "configured to" has been deemed non-functional descriptive material and therefore given no patentable weight.

20. In regards to **Claims 69 and 78**, DeLorme discloses:

A method and system, wherein the vehicle data includes position, speed and direction of travel of the particular moving vehicle. (Column 10, lines 40-42)

21. In regards to **Claims 72 and 81**, DeLorme discloses:

A method and system, wherein the map generator is further capable of redisplaying the map with the superimposed information about the particular moving vehicle and the traveling object based on a change in the event data. (Column 14, lines 26-27)

22. In regards to **Claims 75 and 84**, DeLorme discloses:

A method and system, wherein the manager is further capable of generating an alert when an event occurs that interferes with an estimated arrival time of the particular moving vehicle. (Column 29, lines 59-61)

23. In regards to **Claims 88 and 93**, DeLorme discloses:

A method and system, wherein the information about the plurality of moving vehicles includes flight schedules. (**Column 70, lines 30-32**)

24. In regards to **Claims 91 and 96**, DeLorme discloses:

A method and system, wherein the traveling object is any one of a person, a parcel, a box, and a letter. (**100 and Abstract, lines 16-24**)

25. In regards to **Claims 92 and 97**, DeLorme discloses:

A method and system, wherein the information about a traveling requirement of the traveling object is a travel itinerary or a destination of the traveling object. (**Column 33, lines 23-40**)

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

27. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

28. **Claims 71, 80, 90, 94, and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLorme.**

29. In regards to **Claims 71 and 80**, DeLorme discloses all of the above limitations. DeLorme does not explicitly disclose displaying data together with other associated data however it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have included the displaying of data together with other associated data in order to increase usefulness and convenience for the user by including all related and pertinent data (Column 1, lines 40-43), since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

30. In regards to **Claims 89 and 94**, DeLorme discloses wherein the system has the ability to determine location data on items such as moving vehicles (**Fig. 9A; Fig. 9B; Column 71, lines 61-67; and Column 72, lines 1-8**). DeLorme does not explicitly disclose saving the information moving vehicle location data in a data store, however, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of DeLorme so as to have included saving the information moving vehicle location data in a data store in order to increase efficiency and decrease redundant work by saving useful data (See KSR [127 S Ct. at 1739] "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results."), since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results

31. In regards to **Claims 90 and 95**, DeLorme discloses wherein the traveling object is a user (person) (**100 and Abstract, lines 16-24**). DeLorme does not explicitly

disclose wherein the information about the traveling object includes a name of a person, however, including a person's name within data about a person is old and well known to those of ordinary skill in the art, and official notice to that effect is hereby taken. For example, names are often used as identifiers within a person's personal information in many systems.

32. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of DeLorme so as to have included the information about the traveling object includes a name of a person in order to increase efficiency and usefulness by providing complete and necessary information (See KSR [127 S Ct. at 1739] "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results."), since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

33. **Claims 74 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLorme in view of Davis et al. (Patent No. US 6,353,794 B1) (hereafter referred to as Davis).**

34. In regards to **Claims 74 and 83**, DeLorme discloses all of the above limitation. DeLorme does not explicitly disclose displaying weather on a map, however Davis teaches:

A method and system, wherein the map generator is further capable of displaying weather on the generated map. (Column 6, lines 20-25)

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of DeLorme so as to have included displaying weather on a map taught by Davis in order to increase usefulness and convenience for the user by including additional pertinent data (DeLorme, Column 1, lines 40-43), since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Response to Arguments

1. Applicant's arguments filed October 13, 2009 have been fully considered but they are not persuasive.

2. I. Rejection of Claims under 35 U.S.C. §101

Applicant argues that "access device" fulfills the machine requirement under 35 U.S.C. §101 in view of Bilski. The term "access device" is an extremely broad term that can be interpreted as covering many devices for access and display that do not consist of a compute or other machine that supports patentability under Bilski/35 U.S.C. §101. For example, within the current claim language, the "access device" could be a slide projector in which information on a moving vehicle is accessed from a slide and displayed on a screen.

3. II. Rejection of Claims under 35 U.S.C. §102 and 35 U.S.C. §103

In regards to the prior art rejections, Applicant's arguments are drawn only to material that has been added to the claims and to material that was removed from the claim. This material was not previously rejected (new material) or is not currently

pending (deleted material) and cannot/should not be responded to at this time. Please see the updated rejections above.

Conclusion

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun Sensenig whose telephone number is (571) 270-5393. The examiner can normally be reached on Monday to Thursday 7:30 to 5:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571)272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. S./
Examiner, Art Unit 3629
January 5, 2010

/JOHN G. WEISS/
Supervisory Patent Examiner, Art Unit 3629